

Message Text

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TO USMISSION USUN NEW YORK

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EO 11652: NA

TAGS: PFOR, LA

SUBJECT: REAL PROPERTY TAX EXEMPTION FOR CONDOMINIUM
APARTMENT

REF: USUN 1998

1. REFTEL REQUESTED DEPARTMENT'S OPINION CONCERNING THE TAX-EXEMPT STATUS OF A CONDOMINIUM APARTMENT PURCHASED BY THE LAOTIAN UN MISSION FOR ITS AMBASSADOR. DEPARTMENT ASSUMES THAT THIS PROPERTY (LOCATED AT 30TH STREET AND PARK AVENUE IN MANHATTAN) WILL BE USED AS THE PRINCIPAL RESIDENCE OF THE LAOTIAN AMBASSADOR. MISSION QUERIED WHETHER THE PROPERTY WOULD BE EXEMPT FROM NEW YORK REAL PROPERTY TAX UNDER NEW YORK STATE REAL PROPERTY TAX LAW NO. 418.

2. IN DEPARTMENT'S OPINION, PROPERTY WOULD BE ENTITLED TO REAL PROPERTY TAX EXEMPTION BOTH UNDER NEW YORK STATE LAW AS WELL AS UNDER THE UN HEADQUARTERS AGREEMENT AND CUSTOMARY INTERNATIONAL LAW. UNDER NEW YORK LAW ALL REAL PROPERTY OF A FOREIGN GOVERNMENT WHICH IS A MEMBER OF THE UNITED NATIONS, LEGAL TITLE TO WHICH STANDS IN THE NAME OF THE
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FOREIGN GOVERNMENT OR ITS PRINCIPAL RESIDENCE REPRESENTATIVE

OR RESIDENT REPRESENTATIVE WITH THE RANK OF AMBASSADOR OR MINISTER PLENOPOTENTIARY, IS ENTITLED TO AN EXEMPTION FROM THE BASIC REAL PROPERTY TAX. THUS, IF THIS PARTICULAR CONDOMINIUM APARTMENT IS OWNED OUTRIGHT BY THE GOVERNMENT OF LAOS, THEN IT APPEARS THAT IT WOULD NOT BE SUBJECT TO THE PAYMENT OF NEW YORK REAL PROPERTY TAX.

3. UNDER SECTION 15 OF THE UN HEADQUARTERS AGREEMENT, PRINCIPAL RESIDENT REPRESENTATIVES OF MEMBER STATES AND RESIDENT REPRESENTATIVES WITH THE RANK OF AMBASSADOR OR MINISTER PLENOPOTENTIARY ARE ENTITLED TO THE SAME PRIVILEGES AND IMMUNITIES, SUBJECT TO CORRESPONDING CONDITIONS AND OBLIGATIONS, AS ARE ACCORDED BY THE US TO DIPLOMATIC ENVOYS ACCREDITED TO IT. UNDER ARTICLE 23 OF THE VIENNA CONVENTION ON DIPLOMATIC RELATIONS, NOW IN FORCE BETWEEN THE US AND LAOS, BOTH THE SENDING STATE AND HEAD OF MISSION ARE EXEMPT FROM THE PAYMENT OF TAXES IN RESPECT OF THE PREMISES OF THE MISSION, INCLUDING THE RESIDENCE OF THE HEAD OF THE MISSION. SINCE THE LAOTIAN AMBASSADOR TO THE UN CORRESPONDS IN RANK TO AN ACCREDITED AMBASSADOR OF A FOREIGN COUNTRY WITH A DIPLOMATIC MISSION IN WASHINGTON, IT FOLLOWS THAT THE SAME EXEMPTION FROM REAL ESTATE TAXES EXTENDED WITH RESPECT TO THE RESIDENCE OF AN AMBASSADOR OF A FOREIGN GOVERNMENT ACCREDITED TO WASHINGTON SHOULD BE EXTENDED TO THE RESIDENCE OF THE PRINCIPAL REPRESENTATIVE OF A FOREIGN GOVERNMENT TO THE UN. IT FURTHER SEEMS CLEAR THAT THE PROPERTY IN QUESTION WILL BE OWNED BY A FOREIGN GOVERNMENT AND USED FOR GOVERNMENTAL (DIPLOMATIC) PURPOSES AND SHOULD BE TAX EXEMPT IN ACCORDANCE WITH THE LEGAL REASONING APPLIED BY THE N.Y. COURT OF APPEALS IN THE REPUBLIC OF ARGENTINA V. CITY OF NEW YORK CASE DECIDED BY THAT COURT IN 1969.

4. IF DEPARTMENT OF TAXATION AND FINANCE WISHES TO COMMUNICATE DIRECTLY WITH THE DEPARTMENT ON THIS ISSUE, THE DEPARTMENT WILL FURNISH ADDITIONAL STATEMENTS WITH RESPECT TO THIS MATTER. ROGERS

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